



Frank O'Bannon, Governor
Alan D. Degner, Commissioner

Dept. of Workforce Development
Indiana Government Center South
10 North Senate Avenue
Indianapolis, IN 46204-2277
Phone: 317/232-7670
FAX: 317/233-4793
TDD: 317/232-7560
<http://www.workforce.IN.gov>
An Equal Opportunity Employer

**TO: Chief Elected Officials
Steering Committee**

**FROM: Craig E. Hartzer
Commissioner**

DATE: October 8, 1999

**SUBJ: DWD Communication 1999-13
Policy for Employment Generating Activities
and Relocation Assistance**

Re: Workforce Investment Act Title I

Purpose

To provide guidance for using Workforce Investment Act (WIA) funds for employment generating activities and relocation assistance. The guidance includes Indiana's policy that no assistance is to be provided through WIA funds until one year after a company commences commercial operations.

Rescissions

DWD Communication 98-27 dated December 29, 1998
DWD Communication 97-41 dated March 27, 1998
DWD Communication E95P-8557 dated July 28, 1995

Content

1. **Employment Generating Activities**

The Job Training Partnership Act (JTPA) prohibited the use of federal funds for employment generating activities (EGA) [Sec. 141(q) and 20 CFR 627.225]. Indiana received a waiver for program year 1998 that permitted local entities to use up to 5% of their IIA and III allocations for EGA as long as the activities directly benefitted JTPA participants.

The new Workforce Investment Act (WIA) effectively removes the need for this waiver and does not establish any maximum fund percentage. Section 181(e) of the Act and 667.262 of the regulations permit any Title I WIA funds to be used for EGA *if it is directly related to training for eligible individuals*. Employer outreach and job development activities are considered to be directly related to such training. This includes:

- WIA staff participation on economic development boards and commissions
- Working with economic development organizations to:
 - conduct labor market surveys;
 - promote first source hiring agreements and enterprise zone vouchering services; and
 - active participation in local business resource centers (incubators) to provide technical assistance to small and new business to reduce the rate of business failure.

Refer to the regulations at 667.262 for the complete list of allowable activities and to section 181(e) of the Act for prohibited activities. The preamble to the regulations says "The Rule includes a list of activities that may be provided as allowable economic development or similar activities. This list is not meant to be exclusive. There may be other activities of a similar nature that are directly related to training for eligible individuals that are permissible under WIA."

As under JTPA, funds still may **not** be used for foreign travel or to pay wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system (667.264). Charging of costs are to be consistent with 667.220 of the interim regulations. The requirement to identify benefitting participants by line code 86 in the Participant Management Information System (PMIS) is no longer necessary since no waiver is required for the state to take advantage of this new provision under the law. Additionally, the preamble to the regulations says "It is not intended that such activities must benefit individually identified participants to be allowable, rather, such approaches as first source hiring agreements that promise to benefit participants as a group would suffice."

2. Relocation Assistance

Section 181(d) of WIA and 667.268 of the interim regulations continue the prohibition established under JTPA for encouraging the relocation of a company IF THE RELOCATION RESULTS IN ANY EMPLOYEE LOSING HIS OR HER JOB AT THE ORIGINAL LOCATION. WIA prohibits customized training, skill training, or on-the-job training or company-specific assessments of job applicants or employees of a business or any part of a business that has relocated from any location in the United States until the company has operated at that location for 120 days. Note that there is no timeframe or prohibition for providing services to that employer IF NO EMPLOYEE LOST HIS OR HER JOB AT THE ORIGINAL LOCATION OR IF THE COMPANY IS RELOCATING FROM OUTSIDE THE UNITED STATES. **Relocations and expansions include equipment and or/product lines. Indiana policy requires**

no assistance be provided with Workforce Investment Act funds to the company for one year from the start date of commercial operations.

To verify that an establishment which is new or expanding is not relocating employment from another area, standardized state pre-award review criteria must be completed and documented jointly by the employer and the local area. The following pre-award review criteria must be incorporated into any local pre-award review instrument. The minimum content is derived from requirements in 667.268(b) and 667.270 of the regulations.

1. Name, title, and address of the company official certifying the information.
2. Names and locations under which the establishment does business, including predecessors and successors in interest.
3. Is assistance being sought from federally funded programs in connection with past or impending job losses at other facilities?
4. Has a Worker Adjustment and Retraining Notification (WARN) notice relating to the employer been filed at any other location? [WIA Sec. 181(d)]
5. Name and location of any facility affected by the relocation or expansion of the company that resulted in employment loss at that site.
Displacement of employees at another site includes partial displacements such as reduction in hours of non-overtime work, wages, or employee benefits of any currently employed worker.
 - a. Number of affected employees at that site.
 - b. Timetable for layoffs at the other site(s).
6. Projected start date of commercial operations at the new or expanded location. The commencement of commercial operations means the date when products or services are commercially available.
7. Signature of the company official and local entity representative.

Effective Date

July 1, 1999

Ending Date

June 30, 2005

Action

Local entities must develop pre-award review criteria incorporating the minimum content described in this policy prior to providing customized training, skill training, on-the-job training, or company specific assessments funded by WIA dollars.

CEH:NCB:ega.com